***THE HONOURABLE SRI JUSTICE V.ESWARAIAH**

+WRIT PETITIONS Nos. 2163 & 2315 OF 2007

% DATED: 08.02.2007

WRIT PETITION NO: 2163 of 2007:

G.S.Prabhakar,
S/o. Sudarshanam Naidu,
aged about 70 years,
Retired Employee,
R/o Hyderabad.

...PETITIONER

Vs.

$ The Joint Collector,
Sangareddy,
Medak District & another.

...RESPONDENTS

! COUNSEL FOR THE PETITIONERS: SRI C.RAMACHANDRA RAJU
^ COUNSEL FOR THE RESPONDENTS: GP FOR REVENUE

WRIT PETITION NO: 2315 of 2007:

Adavelli Jaya Chandra Reddy,
S/o. A.Ram Reddy,
aged 24 years,
Occ: Business, R/o H.No.934,
Swapna Colony,
Sulthanabad, Karimnagar Distrct,
Andhra Pradesh & others.

...PETITIONERS

Vs.

$ The Joint Collector,
Medak District at Sanga Reddy,

Medak District,
Andhra Pradesh & another.

...RESPONDENTS

! COUNSEL FOR THE PETITIONERS: SRI C.SUDESH ANAND
^ COUNSEL FOR THE RESPONDENTS: GP FOR REVENUE

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>Head Note

? Cases referred

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THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.2163 & 2315 of 2007

DATED: 08-02-2007

W.P.No.2163 of 2007

G.S.Prabhakar.

...PETITIONER

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AND

The Joint Collector,
Sangareddy,
Medak District & another.

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...RESPONDENTS

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W.P.NO.2315 OF 2007:

Adavelli Jayachandra Reddy & 13 others.

... PETITIONERS

AND

The Joint Colelctor & another.

... RESPONDENTS

COMMON ORDER:

Heard the learned counsel appearing for the petitioners as well as the learned G.P. for Revenue appearing for the respondents.

2. These two writ petitions are filed questioning the same impugned proceedings, dated 27-01-2007, of the Joint Collector, Medak at Sangareddy cancelling the assignment of the lands made in favour of the alleged seven freedom fighters, each to an extent of Ac.5.00 totalling an extent of Ac.35.00 situated at Ameenpur village, Patancheru mandal, earlier assigned by the Mandal Revenue Officer, Patanacheru vide proceedings No.B/96/2005, dated 14-05-2005, and directing to resume the above said lands immediately. As the questions involved in both the writ petitions are similar they are being

disposed of by a common order.

W.P.No.2163 of 2007:

3. It is the case of the petitioner in this petition that the Mandal Revenue Officer, Patancheru Mandal has assigned Ac.5.00 of land in Sy.No.343 of Ameenpur village, Patancheru mandal in favour of one Bollu Bhadraiah, a freedom fighter in the year, 2005 along with six others with the approval of the Mandal Assignment Review Committee consisting of Revenue Divisional Officer, Local M.L.A., etc., by proceedings dated 14-05-2005 in furtherance of the Government policy for assignment of the land to the freedom fighters as envisaged in G.O.Ms.No.185, Revenue (Assign-I) Department, dated 11.03-1997. Pursuant to the said proceedings all the seven freedom fighters including the said Bhadraiah have been put in possession of their respective lands under panchanama. After assignment of the land, the said

Sy.No.343 has been sub-divided by the revenue authorities and Sy.No.343/19 has been allotted in respect of the land assigned to Bollu Bhadraiah and pattadar pass books and title deeds were also issued by the Mandal Revenue Officer in favour of the assignees. It is stated that G.O.Ms.No.185, dated 11-03-1997 permits the political sufferers to alienate the land assigned to them. As such the petitioner purchased the assigned land of Ac.5.00 of land in Sy.No.343/19 of Ameenpur village, Patancheru Mandal from the said Bhadraiah for a valuable consideration under a registered sale deed dated 24-08-2005, i.e., within four months from the date of assignment.

4. The copy of the sale deed filed by the petitioner goes to show that the said land of Ac.5.00 was purchased by the petitioner for a sum

of Rs.30,00,000/-. It is stated that his father obtained permission from the Mandal Revenue Officer, Patancheru for alienation of the land and thereafter only the sale deed was executed in his favour and therefore the assignment of the land in favour of the vendor is valid and legal and the sale made by him in favour of the petitioner is valid and legal and the said transfer is not in contravention of any of the Government orders or the rules relating to the assignment of the lands. It is further stated that after the purchase of the land pattadar passbooks and title deeds were also issued in favour of the petitioner by the Mandal Revenue Officer, Patancheru and therefore, the order passed by the Joint Collector cancelling the assignment of the land and for the resumption of the land without giving any notice to the petitioner is illegal and unsustainable.

Writ petition No.2315 of 2007:

5. Fourteen petitioners filed this petition seeking to declare the aforesaid impugned order of the Joint Collector, dated 27-01-2007, insofar as the lands purchased by them in respect of the said Sy.No.343 with Sub-division Sy.Nos.343/20, 343/21 & 343/22 each admeasuring Ac.5.00 of the said Ameenpur village, Patancheru mandal assigned in favour of Velupukonda Veeramallu, Manchikatla Mallesham and Erumalla Rajanarsu, as illegal, arbitrary and against the principles of natural justice.

6. It is stated that the first six petitioners purchased 20 gts each in respect of Sy.No.343/21 vide registered sale deeds, dated 25-02-2006; petitioners 7 to 10 purchased Ac.1.00 each in Sy.No.343/21 and 343/20 vide registered sale deed, dated 25-02-2006; eleventh petitioner purchased Ac.3.00 of land; Petitioners 12 and 13 purchased Ac.1.27 gts; and the 14th petitioner purchased

Ac.1.26 gts vide registered sale deeds, dated 25-02-2006 and 07-02-2006, respectively from the said three persons namely Velupukonda Veeramallu, Manchikatla Mallesham and Erumalla Rajanarsu, in whose favour the said land was assigned by the 2nd respondent vide proceedings No.B/96/2005, dated 14-04-2005. It is stated that similar averments have been made with regard to the assignment of the said land in favour of their fathers and that there is no prohibition for transfer of the said land in favour of the petitioners and the sale deeds produced by the petitioners are legal and valid and it is not contrary to the orders of the Government in G.O.Ms.No.185, dated 11-03-1997, and the impugned orders passed are illegal and against the principles of natural justice.

7. The undisputed facts are that the Mandal Revenue Officer, Patancheru vide proceedings No.B/96/2005, dated 14-04-2005, assigned an extent of Ac.5.00 each in Sy.No.343/1 situated at Ameenpur village, Patancheru mandal in favour of
Bollu Bhadraiah, s/o Ramaiah; Manchikatla Mallesham, s/o Ramaiah; Erumalla Rajanarsu, S/o Narasimhulu, Sunkapally Devaiah, S/o Mallesh; and Velupukonda Veeramallu,
S/o Butchaiah. The said proceedings goes to show that the assignment proposals are approved by the Mandal Assignment Review Committee held on 14-05-2005 under G.O.Ms.No.1743, Rev.Department, dated 28-08-1959, and G.O.Ms.No.1110, Rev.Department, dated 26-06-1960. The said assignment order does not disclose the particulars of the village, mandal, and district to which they belong, but the fact remains that the land assigned to the above persons is in Ameenpur village, Patancheru mandal of Medak District. Some of the sale deeds filed by the petitioners in the second writ

petition go to show that they have purchased 20 gts of land for Rs.3,25,000/-; Ac.1.00 for Rs.6,50,000/- and Ac.5.00 for Rs.30,00,000/-. Some others have purchased Ac.5.00 @ Rs.7,00,000/- per acre i.e., Rs.35,00,000/- per Ac.5.00. That is the value mentioned in the registered document but it is not known what is the real market value prevailing in respect of the said lands, if they are disposed of by way of public auction.

8. The patta certificates granted in favour of the assignees on 14-04-2005 go to show that the said assigned lands shall be brought under cultivation within two years from the date of the order by the assignee or his successors. The existing customary rights of the Government and the public in roads, rivers, steams and channels running through or bounding the land and the rights of the Government to share in mines and quarries adjacent to the said land are reserved and are in no way affected by the grant. The Government reserves the right in levying ground rent in lieu of assessment if the land or portion of it after having been once brought under cultivation issued for non-agriuculture purpose. The Government reserves the rights to all Sandalwood trees, its branches and roots which exist at the time of assignment as well as those which may grow subsequently. As per the condition 31, in the event of infringement of failure to observe any of the conditions 9 to 11 by the assignees, the Government is entitled to realize compensation from the assignees and the Government is at liberty to cancel the assignment and re-enter on the land and the whole land shall not be entitled to any compensation whatsoever. In the event of cancellation of the assignment either *suo motto* or on appeal or on revision the assignee shall not be entitled to any compensation for any

improvements that he may have made to the land. The collection of the land value in respect of the project affected lands assigned to political sufferers should commence from the fourth year of the grant irrespective of the fact whether portion under cultivation at the time of assignment is less than half or more than half. In the event of resumption of the land assigned on market value the purchase money as such share of it as in a proportion to the area presumed will be repaid. The assignment is also liable for cancellation if it is found that is grossly inequitable or was under a mistake of fact or owing to misrepresentation of fraud or in excess of the limits of the authority delegated to the assigning officer under B.S.O. 15 r/w G.O.Ms.No.1142, Revenue, dated 18-06-1954 and subsequent orders that they are irregular in procedure. Under conditions 37 and 38 the assignee shall not alienate the land unless the land value, if any, due to the Government is fully paid. The assignment order, dated 14-04-2005, says that the assignment was made as per the previous G.O.Ms.No.1743, Rev.Department, dated 28-08-1959 and the G.O.Ms.No.1110, Rev.Department, dated 26-06-1960. The order of the Government in G.O.Ms.No.1743, Rev.Department, dated 28-08-1959 goes to show that the land assigned in favour of the political persons shall not be alienated for a period of ten years. The assignees or their family members and successors shall alone cultivate and they shall not lease out the said lands. If the land is presumed for the purpose of project or any other purpose no compensation shall be paid to the assignee for any improvement made by him. Clause 2 of the said order goes to show that the political sufferers may be permitted to sell away the land assigned to them without imposing any conditions. I am of the opinion that Clause No.2 of the G.O.Ms.No.1743 is not the independent clause but it shall be read along with Clause No.1

according to which the lands assigned in favour of the political sufferers already made, and future grants should not be alienated for a period of ten years. Only after enjoying ten years by way of personal cultivation they are permitted to sell the lands without imposing any conditions. By no stretch of imagination it may be presumed and assumed by the aforesaid clause No.2 that the political sufferers are entitled to immediately sell away the assigned lands after the assignment. Admittedly, the assignment was made according to the provisions of G.O.Ms.No.1743, Rev.Department, dated 28-08-1959, only and therefore, I am of the opinion that the assignees who are the political sufferers are not entitled to sell the land till the expiry of ten years from the date of assignment. The Government by order in G.O.Ms.No.946, Rev.Department dated 26-07-1979 prescribed certain criteria eligible for the assignment of the lands by freedom fighters/political sufferers. The Government also issued orders in G.O.Ms.No.472, Revenue (Assign-I) Department, dated 22-05-1993 taking certain decisions for allotment of house sites subject to certain terms and conditions based on their eligibility and the said Government order also goes to show that the freedom fighters who are assigned house sites are not entitled to sell the same for a period of ten years, and if any agricultural land is assigned to the freedom fighters they shall surrender the said land for assigning the house site.

9. Learned counsel appearing for the petitioners submits that as per the order in G.O.Ms.No.185, Rev.Department, 11-03-1997, wherein the order in G.O.Ms.No.1743, Rev.Department, dated
28-08-1959 was referred according to which the political sufferers are permitted to sell away the land assigned to them without imposing any conditions and as per the clarification made by the Mandal Revenue

Officer, Patancheru vide letter No.B/96/2005 dated 26-06-2005, as the freedom fighters were allotted the land in accordance with the orders in G.O.Ms.No.1743 the conditions at S.Nos.37 and 38 of patta certificates are not applicable since the pattas are granted under the aforesaid G.O.Ms.No.1743, Rev.Department, dated 28-08-1959 and G.O.Ms.No.1110, dated 26-06-1960 and hence, the land allotted is alienable. It is stated that in view of the aforesaid endorsement only the petitioners have purchased the said land and therefore, there is no violation of law and the petitioners are entitled to right, title, and possession of the said land.

10. I am unable to accept the above contention of the learned counsel for the petitioners as G.O.Ms.No.1743 clearly goes to show that there is a clear prohibition for the alienation of the said land for a period of ten years and in fact, there is a prohibition also for leasing out the said land and Clause 2 of the said G.O., comes into play only after the expiry of ten years of the allotment entitling them to alienate/sell the said land without any conditions as absolute owners. Otherwise, if the freedom fighters/political sufferers are permitted to sell away the assigned lands immediately the fraud that has been taken place in these two cases is likely to repeat and the valuable government land will be siphoned by dubious methods in the way in which it has been done in the instant cases.

11. A perusal of G.O.Ms.No.185, Rev.Department, dated 11.03-1997, goes to show that as per the Government memo No.B2/3220/59/2, dated 11-04-1959, the land shall be allotted to the political sufferers in respect of the respective villages/districts only. They may also be granted lands in other districts if lands were not granted to them in their native districts. The modified conditions as per

G.O.Ms.No.185 are only that the agricultural land in Visakhapatnam, Hyderabad, and Rangareddy cannot be assigned to freedom fighters as the lands in the said three districts are to be retained for the government purpose. In other districts if the land is available it will be assigned as per the existing scales and rules only.

12. In fact, there is ambiguity in the order of G.O.Ms.No.185, Rev.Department, dated 11-03-1997, but however, the government issued an amended order by G.O.Ms.No.1045 dated 15-12-2004 to the G.O.Ms.No.185 and G.O.Ms.No.917 Revenue (Assign-I) Department, dated 31-10-1997, (amending paragraph 3 (3) of G.O.Ms.No.185, dated 11-03-1997) by substituting the words “the freedom fighters are not entitled to alienate the lands. If assigned the land is alienated by way of sale by a freedom fighter, such assignment shall be cancelled and the land shall be resumed by the Government” with “ the freedom fighters are free to sell away their assigned land and house sites after a period of ten years”. Thus, there are specific orders of the Government in G.O.Ms.No.1045 dated 15-12-2004 prohibiting the alienation of the lands for a period of ten years from the date of the transaction. In fact, similar condition is there even in respect of the lands assigned to the Ex-servicemen vide G.O.Ms.No.1117, dated 11-11-1993 stating that the assigned land shall not be sold or otherwise alienated for a period of ten years. Thus, there is a specific prohibition to transfer the assigned lands in favour of freedom fighters/political sufferers and also the Ex-servicemen.

13. Learned counsel appearing for the petitioners further submits that the impugned order of the Joint Collector, dated 27-01-2007, is admittedly passed without issuing any notice and without admitting about the illegality in alienation and prohibition of the

said orders. It is stated that however illegal they may be the lands purchased by the petitioners cannot be resumed to the Government without giving any notice to them and therefore, the petitioners are entitled to submit explanation and then only the 1st respondent is entitled to pass appropriate orders.

14. A perusal of the impugned order goes to show that in respect of two persons namely K.Komaraiah and B.Bhadraiah their residence is shown as C/o address and it is not known to which district they belong and in whose favour Ac.5.00 of land each was granted. Insofar as the five persons are concerned, the assignment order of the Mandal Revenue Officer, dated 14-04-2005, goes to show that they are all residents of various villages of Huzurabad Mandal of Karimnagar District but they do not belong to Medak District. The joint Collector cancelled the assignment orders on the ground that a news item was published in 'Enadu' daily newspaper, dated 27-05-2006, in respect of the assignment erroneously made in favour of seven freedom fighters. Pursuant to the said news item the matter has been enquired into and during the course of the enquiry it came to notice that several procedural lapses are found in the assignment of the land to the freedom fighters on the file of the Mandal Revenue Officer, Patancheru mandal. Accordingly, notices, dated 19-02-2007, have been issued to all the seven freedom fighters individually and the Mandal Revenue Officer, Patancheru also submitted served copies of the notices on all others but except on one person alleging that due to non-availability of address notice has been pasted on the land as well as on the notice board of the concerned Gram panchayat.

15. It is stated that the assignment of the land in Medak District in favour of the freedom fighters belonging to other districts is contrary to

the orders in G.O.Ms.No.185 dated 11-03-1997. As per the said orders the assignment of the land shall be made in their native district only and if no land is available, then it may be made in other districts other than Rangareddy, Hyderabad, and Visakhapatnam. It is further stated that the entire process of receiving the patta certificate has been completed within ten days which is quite irregular and against the Government rules and norms. It is stated that Ameenpur village comes under the Hyderabad Urban Development Authority and the assignment proposals have been hastily proposed before the Mandal Revenue Assignment Committee and got approved by it, which is irregular.

16. In view of the aforesaid facts and circumstances, the said impugned orders have been passed while submitting a report to the Government. I am of the opinion that the assignment of the land in favour of the said seven freedom fighters, who do not belong to Medak District, is also illegal and contrary to the rules and in fact, no explanation has been submitted by any of the assignees regarding the way in which the entire process has been completed in seven days without enquiring whether the lands are available in Karimnagar District or not to which the assignees belong and without verifying the lands available for assignment in their native district, assignment of the lands in Medak District which comes under the HUDA which is valuable and the way in which the lands have been sold within four months and thereafter the assignment goes to show that any amount of irregularity and illegality has been committed by the Mandal Revenue Officer, Patancheru and therefore, immediate action requires to be taken against the Mandal Revenue Officer, Patancheru in accordance with law after giving reasonable opportunity to him. However, as

admittedly, no notice was issued to the petitioners, the impugned order is directed to be treated as a show cause notice only and the petitioners are permitted to submit explanation treating the impugned order, dated 27-01-2007, as a show cause notice within ten days from today and on submission of such explanation the 1st respondent is directed to consider the said explanation, if any, received within ten days from today and pass appropriate orders in accordance with law. The appropriate authority shall also take appropriate action against the Mandal Revenue Officer, Patancheru and the concerned Review Committee members who approved the proposals of the assignment on 13-04-2005 for the illegality committed by them. I am of the opinion that the Mandal Revenue Officer has no authority or power to give the endorsement vide letter No.B/96/2005 dated 25-06-2006 clarifying that two conditions at S.No.37 and 38 as shown in the final patta certificates, dated 14-04-2005, is without any jurisdiction and also illegal and as already stated the orders of the Government of India in G.O.Ms.No.1743 and the subsequent orders in G.O.Ms.No. 185 clearly prohibit the assignment of the land for a period of ten years and therefore, necessary appropriate action requires to be taken against the Mandal Revenue Officer, Patancheru for the aforesaid action in accordance with law.

17. Writ Petitions are disposed of directing the petitioners to submit explanation treating the impugned order, dated 27-01-2007, as a show cause notice within ten days from today and on submission of such explanation the 1st respondent is directed to consider the same and pass appropriate orders in accordance with law within ten days thereafter, and also to take appropriate action against the 2nd respondent-Mandal Revenue Officer, Patancheru, and the

concerned Review Committee members, who approved the proposals of the assignment on

13-04-2005, for the illegality committed by them. Till the explanations filed by the petitioners are disposed of, *status quo* obtaining as on today as regards the nature of possession of the assigned lands in question shall be maintained. No order as to costs.

V. ESWARAIAH, J

08th February, 2007.

Copy to:

1. The Principal Secretary to the Government, } for taking
   Revenue Department, } necessary action
   Hyderabad. } against the
2. The Chief Commissioner of Land Revenue, } concerned.
   Hyderabad. }

Note:

1. Furnish C.C. of the order by 17-02-2007
2. LR copy marked.

B/o

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